

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CONTINGENTLY INCREASING THE WHOLESALE ENERGY TRANSACTION TAX; AMENDING SECTION 15-72-104, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-72-104, MCA, is amended to read:

"15-72-104. Wholesale energy transaction tax -- rate of tax -- exemptions -- cost recovery. (1) (a)

Except as provided in subsection (3), a wholesale energy transaction tax is imposed upon electricity transmitted within the state as provided in this section. The tax is imposed at a rate of ~~0.015~~ 0.018 cent per kilowatt hour of electricity transmitted by a transmission services provider in the state.

(b) For electricity produced in the state for delivery outside of the state, the taxpayer is the person owning or operating the electrical generation facility producing the electricity. The transmission services provider shall collect the tax from the person based upon the kilowatt hours introduced onto transmission lines from the electrical generation facility. The amount of kilowatt hours subject to tax must be reduced by 5% to compensate for transmission line losses.

(c) For electricity produced in the state for delivery within the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider. The taxpayer may apply for a refund for overpayment of taxes pursuant to 15-72-116.

(d) For electricity produced outside the state for delivery inside the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider.

(e) For electricity delivered to a distribution services provider that is a rural electric cooperative for delivery to purchasers that have opted for customer choice under the provisions of Title 69, chapter 8, part 3, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based on the amount of kilowatt hours of electricity delivered to the distribution services provider that is attributable to

1 customers that have opted for customer choice.

2 (f) For electricity delivered to a distribution services provider that prior to May 2, 1999, was owned by
3 a public utility as defined in 69-3-101, the tax is imposed on the successor distribution services provider. The
4 transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity
5 delivered to the distribution services provider.

6 (2) (a) If more than one transmission services provider transmits electricity, the last transmission
7 services provider transmitting or delivering the electricity shall collect the tax.

8 (b) If the transmission services provider is an agency of the United States government, the distribution
9 services provider receiving the electricity shall self-assess the tax subject to the provisions of this part.

10 (c) If an electrical generation facility located within the state produces electricity for sale inside and
11 outside the state, sales within the state are considered to have come from electricity produced within the state
12 for purposes of the tax imposed by this section.

13 (3) (a) Electricity transmitted through the state that is not produced or delivered in the state is exempt
14 from the tax imposed by this section.

15 (b) Electricity produced in the state by an agency of the United States government or electricity
16 produced from an electric energy generation facility, as defined in 90-5-101(3), constructed after May 1, 2001,
17 that is within the exterior boundaries of a Montana Indian reservation for delivery outside of the state is exempt
18 from the tax imposed by this section.

19 (c) Electricity produced by wind turbines erected on state land for which annual lease payments are
20 made to the permanent school trust fund is exempt from the tax imposed by this section.

21 (d) Electricity delivered to a distribution services provider that is a municipal utility described in
22 69-8-103(5)(b) or a rural electric cooperative organized under the provisions of Title 35, chapter 18, is exempt
23 from the tax imposed by this section.

24 (e) Electricity delivered to a purchaser that receives its power directly from a transmission or distribution
25 facility owned by an entity of the United States government on or before May 2, 1997, or electricity that is
26 transmitted exclusively on transmission or distribution facilities owned by an entity of the United States
27 government on or before May 2, 1997, is exempt from the tax imposed by this section.

28 (4) A distribution services provider is allowed to recover the tax imposed by this section and the
29 administrative costs to comply with this part in its rates."

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COORDINATION SECTION. **Section 2. Coordination instruction.** If House Bill No. 388 is not passed and approved or if it does not amend 15-72-106 by providing for a deposit of a portion of the wholesale energy transaction tax in the state special revenue account created in [section 9] of House Bill No. 388 to fund the activities of the Montana transmission authority, [this act] is void.

NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2005.

NEW SECTION. **Section 4. Applicability.** [This act] applies to electricity transmitted after June 30, 2005.

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